

No. 9(1)81-8Lab/10045.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s. The Panipat Co-operative Sugar Mills Ltd., Panipat.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD
Reference No. 298 of 1980
between

SHRI GOPI RAM WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S THE PANIPAT CO-OPERATIVE SUGAR MILLS LIMITED, PANIPAT

Shri Karan Singh, for the workman.

Shri R. S. Malik for the management.

AWARD

This reference No. 298 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/KNL/94-80/38260, dated 22nd July, 1980 under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Gopi Ram, workman and the respondent-management of M/s Panipat Co-operative Sugar Mills Limited, Panipat. The term of the reference was —

Whether the termination of services of Shri Gopi Ram was justified and in order?
If not, to what relief is he entitled.

After receiving this reference, notices were issued to the parties. The parties submitted their pleadings in the Court and on the pleadings of the parties, the following issues were framed :—

- (i) Whether the termination of services of the workman is proper and justified and in order? If not, to what relief is he entitled.
- (ii) Relief.

According to the claim statement and rejoinder, the case of the applicant is that he was working as jamadar of watch and ward and he received notice, dated 8th March, 1980 by which the claimant being retired from 15th April, 1980. The claimant sent the replies of the notices on 11th March, 1980, 19th March, 1980 and 18th April, 1980. The claimant stated that the retirement age given on the record is wrong. Then the claimant received another letter dated 25th April, 1980 by which the claimant is directed to appear before the Chief Medical Officer, Karnal for the verification of age. The claimant appeared before the C.M.O., Karnal on 7th May, 1980 and he gave the report on the same that by appearance the claimant is seemed to be within 50-55 years of age. The claimant claimed that he has to retire at the age of 60 years. The respondent has wrongly retired the claimant on 15th April, 1980. The General Manager, Panipat Co-operative Sugar Mills Limited, Panipat considered the certificate produced by the claimant and rejected the same. The claimant has claimed his reinstatement with continuity of service and with full back wages. The respondent in his written statement admitted that the workman had been retired since 16th April, 1980. The claimant had been given an opportunity to produce authentic proof of age but he failed. They also admitted the letter to the C.M.O., Karnal but this was to bring a copy of birth entry from register of birth maintained in his office. The workman has wrongly put his case before the C.M.O., Karnal to get this certificate which was required by this office. The claimant has mis-reported the facts before the C.M.O., Karnal and

Instead of getting the authentic proof of age he has managed to get the opinion from the Dy. C.M.O., Karnal regarding this which is in fact no conclusive proof of his age. They further stated that mill issued a letter dated 21st March, 1968 which is Ex. M-1 which concerned all the employees of the factory. They have admitted that the claimant was entered in the services without any proof of age. To complete the record, the General Manager, Panipat Co-operative Sugar Mill Limited, Panipat issued this letter to complete this record to the workmen and according to this letter, the claimant appeared before the Medical Officer of the respondent mill who examined him on 15th April, 1968 his age was declared as 48 years which is admitted fact by the claimant and thus retirement of the workman on 16th April, 1980 is proper and justified.

The workman produced Ex. W-1 a letter from the C.M.O., Karnal to the General Manager, Panipat Co-operative Sugar Mills Limited, Panipat, regarding age certificate dated 7th May, 1980, Ex. W-3 a letter from Shri Gopi Ram dated 11th March, 1980 in reply of letter dated 8th March, 1980, Ex. W-4 a letter dated 19th March, 1980 from Shri Gopi Ram to the General Manager, respondent Ex. W-5 a letter from Shri Gopi Ram dated 18th April, 1980 to the General Manager of respondent Mill, Ex. W-6 a letter from Shri Gopi Ram to the General Manager of respondent Mill, Ex. W-7 postal receipt for registration and Ex. W-8 acknowledgement receipt and Ex. W-2 a notice for retirement. The claimant appeared as his own witness as WW-1 and closed his evidence. The respondent produced MW-1 Shri Babu Ram Senior Time Keeper of the respondent factory as MW-1 and Ex. M-1 a notice to the workman dated 21st March, 1968 for the age certificate from the Medical Officer of the respondent Mill by which the Medical Officer has examined the claimant and declared his age as 48 years, Ex. M-3 an application from Shri Gopi Ram by which he has requested to issue a docket in the name of C.M.O., Karnal, Ex. M-4 is a letter from General Manager of the respondent Mill to the C.M.O., Karnal for the age certificate, Ex. M-5 a original certificate issued by the C.M.O., Karnal and closed their evidence. My finding on issues is as under :—

In this case the claimant has been retired on 16th April, 1980 by the respondent at the age of 60 according to their own record. This is admitted fact that the workman was taken on duty without any proof of age. In the year 1968, the General Manager of the respondent Mill issued a notice that the record of the workmen are incomplete as there is no age given on the record. He issued Ex. M-1 a notice to all the workmen to produce their proof of age and the workmen who have failed to produce any proof of their age they appeared before the Medical Officer of the respondent Mill who after examining the workman gave the certificate to each workman and that age was entered in the record of the workmen, and according to their record, the respondent issued a notice to this workman which Ex. W-2 but on the application of Shri Gopi Ram which Ex. M-3 in which he has requested to the General Manager of the respondent Mill to issue a docket in the name of C.M.O., Karnal because he has applied for the birth certificate in the office of the C.M.O., Karnal but that have not been found. In this application he has also mentioned that the docket be issued for the determination of age, on his request. The General Manager of the respondent Mill issued a letter dated 25th April, 1980 which is Ex. M-4 in which he has written that according to the claimant's request his age is fifty-six and according to the service record of the respondent mill, he is being retired on 16th April, 1980 at the age of 60 years. In order to make the position clear in this respect necessary age certificate in respect of him is needed. It will be appreciated if you kindly supply the same through him at the cost. On this letter the C.M.O. Karnal issued a letter Ex. M-5 on 5th July, 1980 declared his age by appearance as about 50-55 years of age. This certificate was considered by the General Manager of the respondent Mill on 8th May, 1980 and rejected the same as it cannot be used in favour of the applicant because he was required to supply the age certificate on the basis of birth and death register of the village Chowkidar. According to the statement of the claimant he joined watch and ward Jamadar on October, 1956 and received

a letter Ex. W-2 a notice for retirement and narrated his whole story in his statement. In his cross-examination he has admitted that he was in the army before joining this service but he has losted his discharge certificate. He could not tell his number in the army. He could not tell age when he joined the services of the respondent management on the suggestion. He has further admitted in his cross-examination that the Medical Officer of the respondent Mill certified his age in the year 1968. Shri Babu Ram who appeared as MW-1 and stated that the claimant joined the services of the respondent on 18th December, 1956 and at that time he did not produce any proof of his age and likewise other workmen was taken in the services without any proof of age. On 21st March, 1968 a notice were given to all the workmen as Ex. M-1 and all the workmen appeared before the Medical Officer of the respondent mill for certifying their age who recorded the age of each workman and admitted the same at that time.

In my opinion the workman has failed to prove his case because the respondent mill gave him first opportunity to produce his age certificate in the year 1968 which the claimant admits in his statement that he appeared before the Medical Officer of the respondent who examined him and declared his age as 48 years. If he has some objection about his age he should have raised it at that time. When once he has accepted the age he cannot go beyond that. He has objected on this notice of retirement dated 8th March, 1980 that according to the village Chowkidar register he is of 56 years of age. He should have produced that certificate or entry thereof. If not in the factory then he could produced it before this Court which he has not produced. The respondent management wrote a letter to the C.M.O. Karnal which Ex. M-4 to bring entries in the register of birth and death but he got a certificate of age from C.M.O., Karnal. Now there are two things before me, there is one certificate of the Medical Officer of the respondent Mill dated 15th April, 1968 in which he has declared the age of the claimant as 48 years according to his opinion. The other certificate dated 7th May, 1980 in which the Medical Officer has declared that by appearance he seems to be round about 50-55 years of age, but he is failed to produce the entries of the birth and death register of the village Chowkidar which is authentic proof of his age. When the claimant has not objected the authenticity of the first certificate at that time. He cannot object at the stage for his own interest. So the General Manager of respondent Mill has rightly given the notice of retirement to the claimant which is Ex. M-2 and he has been rightly retired the workman. So, the workman is not entitled to any relief. No order as to costs. This may be read an answer of this reference.

The 20th August, 1981.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court, Haryana,
Faridabad.

Endorsement No. 2599, dated 27th August, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court, Haryana,
Faridabad.